IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

First Appeal no.l00 of 2006

Dr Ramesh Babu ..appellant
vs
Dr Priya Ramesh Babu .. respondent

Mr Haridas for P N Joshi for appellant
Mr R VMore for respondent

CORAM; A.M.KHANWILKAR J.

DATED 27.2.2006

P.C.

l. Heard the learned counsel for the parties. Admit. Mr More waives notice for respondent. As short question is involved heard forthwith by consent.

2. In so far as the main issue with reference to the relief claimed by the appellant for custody of the minor child- respondent no.4, who is incidentally a daughter, presently aged 6 years, is concerned,I see no infirmity with the course adopted by the trial court and for the reasons stated in the order particularly from para 28 onwards of the impugned judgment. The court below has applied correct principles and reached at a finding substantiated from the

evidence as has come on record indicating that the respondent is serving at Nasik and minor child is under her care and custody and the child is getting proper education at Nasik Road school. The child has also registered satisfactory progress in the school at Nasik(Symnoysis School). To that extent, I find that the conclusion reached by the trial court needs no interference in this appeal.

3. The counsel for the appellant then states that at least limited indulgence be shown to the appellant to the extent that whenever he is in Nasik,either on account of professional visit or private visit,he will be provided access to the minor child as per the arrangement directed by the trial court, instead of limiting it to only every first Sunday of the month. The counsel for the respondent no.l on instructions of the respondent no.l who is present in court submits that she has no difficulty in accepting this suggestion provided sufficient prior intimation is given to the respondent no.l in that behalf.In other words, the visiting rights or access to the minor child to be provided to the appellant will not be limited to first Sunday of

every month but can be availed during his visit to Nasik either for his personal or professional visit as the case may be. Such access will be provided between 2.30 to 5.30 p.m. in the presence of court commissioner to be appointed by the trial court or individual party to be nominated by the parties by consent.

4. The counsel for the appellant further submits that the appellant is willing to provide for all the expenses towards travelling, lodging and boarding to the respondent no.l, if she intends to visit Bangalore alongwith the minor child. That arrangement can be worked out between the parties by mutual consent. Respondent no.l who is present in court has expressed willingness to accept such offer subject to her availability and convenience and not as of right to be claimed by the appellant. On that understanding the parties will deliberate on such request and take appropriate decision as may be convenient to the respondent no.l and the minor child.

5. The counsel for the appellant then states that the appellant be permitted to take away the

child to Bangalore during vacations such as Diwali and X-Mas vacations. That aspect can be considered only after the court commissioner, in whose presence the appellant would be provided access to the minor child, certifies that the minor child was found to be comfortable in the company of the appellant. If such request is made, that will be considered on its own merits and in accordance with law.

6. Accordingly, this appeal succeeds partly to the above extent, modifying the portion of the order in clause (2) to the limited extent as referred to above, which arrangement has been arrived between the parties by consensus.